



TFW 1761

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.:	10/042,754	§	Confirmation No.:	2221
Applicant:	Burke et al.	§		
Filed:	07/23/2002	§		
TC/A.U.:	1761	§		
Examiner:	Carolyn A. Paden	§		
Title:	Seasoning System and Method	§		
Docket No.:	Svejkovsky-22-5	§		

RESPONSE TO OFFICE ACTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The Office Action dated May 4, 2006 has been received and duly noted.

Many of the claims were rejected as being obvious over Burke, U.S. Patent 6,588,363. The Examiner contends that the '363 patent constitutes prior art under 35 U.S.C. 102(e). The undersigned respectfully submits that the '363 patent is not prior art under 102(e) since the application which resulted in the '363 patent was not filed by another before the invention by Applicant. The present application Serial No. 10/042,754 is a continuation of U.S. Serial No. 09/641,190, which is now the '363 patent. The specification was amended on December 8, 2003 to recite that the present case is a continuation of the previously filed parent case. Moreover, the '363 patent and the present application are owned by the same party, and name the same inventors.

The Examiner also rejected many of the claims based on obviousness-type double patenting. Applicant respectfully submits that this rejection is improper since Claims 59-65 and especially 63-65 of the '363 patent are clearly

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not identical, and in fact are patentably distinct from the pending claims. The Examiner contends that it is not seen that the speed of forward movement relative to backward movement alone constitutes obviousness. None of Claims 59-65 of the '363 patent recite reciprocating the tumble drum linearly in a forward/backward manner to slide product along the tumble drum and thereby discharge the product from the tumble drum, as set forth in pending Claim 83. None of these claims in the '363 patent recite reciprocating the tumble drum linearly as set forth in Claim 114, in combination with affixing the tumble drum to the product tray such that the tumble drum and the product tray move in a slow forward/backward manner.

In view of the above, reconsideration is respectfully requested. If the Examiner believes the undersigned is incorrect and the '363 patent is a proper reference under 102(e), Applicant requests that the undersigned be contacted to better explain how the parent application can be a 102(e) reference in this case.

Early allowance of the application is requested.

Respectfully submitted,



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Date: May 11, 2006

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CERTIFICATE OF MAILING

I certify that this document is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 [37 CFR 1.8(a)] on May 11, 2006.



Khristine McNeil